REMARKS

Claims 1, 3 through 5 and 7 through 10 are pending in this Application. Claims 1 and 3 have been amended, claims 2 and 6 cancelled, and new claim 10 added. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure. Applicants submit that the present Amendment does not generate any new matter issue.

Claims 1 through 3, 5, 6, 8 and 9 were rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Kuribayashi et al.

In the statement of the rejection the Examiner referred to Figs. 6 and 7 of Kuribayashi et al., asserting the disclosure of an optical module corresponding to that claimed. This rejection is traversed as factually inaccurate.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc., 329 F.3d 1358, 66 USPQ2d 1801 (Fed. Cir. 2003)*; *Crown Operations International Ltd. v. Solutia Inc., 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002)*. There are significant differences between the claimed optical module and the module disclosed by Kuribayashi et al. that scotch the factual determination that Kuribayashi et al. disclose an optical module identically corresponding to that claimed.

Specifically, Applicants submit that the Examiner's rejection is predicated upon an inaccurate determination of the structure disclosed by Kuribayashi et al. Adverting to Fig 7 of Kuribayashi et al., the Examiner asserted that the semiconductor optical device 16 is optically coupled to the optical connector, which is not illustrated in Fig. 7 but in Fig. 6. According to the

Examiner, the space, into which the optical assembly is installed, and the cavity that receives the optical connector, are illustrated in Fig. 7. An elastic member 58 is said to be provided such that the head portion of the optical assembly is moveable within the cavity, and the groove forms, in its inner surface, a groove 80H with a front surface and a rear surface. The Examiner further asserts that the flange 90 is provided in the outer surface of the assembly and the front surface of the groove with the elastic member therebetween. Further, bracket 86 is said to be inserted between flange 90 and the rear surface of the groove 80H.

The above interpretation of Fig. 7 by the Examiner is not accurate. Specifically, in the structure disclosed by Kuribayashi et al., flange 80, which is identified as the ring member, is fixed to the fixed sleeve 88. In other words, flange 90 is **immovable**. Flange 90 operates as a **stopper** for the springs 58. The other stopper for the spring 58 is stopper 64 which is integrated with flange 92. Ferrule 84 is connected to movable flange 92 and stopper 58. Stopper 58 is moveable only within groove 80G formed in the inner surface of the receptacle which controls the range of movement.

When the sleeve does not receive the optical connector, stopper 64 is pressed to the front surface of the groove 80G by spring 58. **Therefore, unlike the present invention, the arrangement of Kuribayashi et al. is not able to precess in its head portion sleeve 60 of the assembly until movable flange 92 moves back to separate the front surface of groove 80G.**

Since ferrule 84 in the device of Kuribayashi et al. is integrated with moveable flange 92 and the stopper 64, the ferrule inevitably moves backward. However, this arrangement disadvantageously engenders physical contact between coupling fiber 82B, which is secured to the center of the ferrule, and the optical fiber secured in the optical connector. An optical connector also contains a spring, e.g., element 10 in Fig. 2 of the present Application. The

optical coupling between two fibers, the coupling fiber 82B and the extrinsic optical fiber, depend on the spring constant of several springs.

On the other hand, in accordance with the present invention as illustrated in Fig. 2 of the present Application, flange 23 of the assembly is always in direct physical contact with the rear surface of groove 25, which is formed in the inner surface of receptacle 3. The optical assembly 11, 12 does not move backward even if the sleeve thereof mates with the optical connector. The elastic member 24, which is the O-ring, is positioned between the front surface 3a of groove 25 and the flange 23 of the assembly. Only deforming the O-ring 24 makes is possible for the head portion, the sleeve 21, of the assembly to precess. Since flange 23 does not retreat, a stable optical coupling between the coupling fiber 15 and the external optical fiber inserted into sleeve 21 is achieved. The device of Kuribayashi et al. is capable of precessing after movable flange 92 retreats. However, as long as the retreat of the moveable flange 92 is premised, reliable physical contact between the fibers cannot be achieved.

Consistent with the foregoing distinctions between the claimed optical module and that disclosed by Kuribayashi et al., Applicants note that claim 1 now recites that the rear surface of the groove is in direct contact with the flange of the optical sub-assembly, while independent claim 3 recites that the flange of the optical sub-assembly is in contact with the rear surface of the groove through the bracket. No such structures are disclosed or suggested by Kuribayashi et al. These argued differences between the claimed optical module and the module disclosed by Kuribayashi et al. undermine the factual determination that Kuribayashi et al. disclose an optical module identically corresponding to those claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc., 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992)*; *Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).*

Applicants, therefore, submit that the imposed rejection of claims 1 through 3, 5, 6, 8 and 9 under 35 U.S.C. § 102 for lack of novelty as evidenced by is Kuribayashi et al. is not factually viable and, hence, solicit withdrawal thereof.

Claims 4 and 7 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Kuribayashi et al.

This rejection is traversed.

Firstly, claims 4 and 7 depend from independent claim 1. Applicants incorporate herein the arguments previously advanced in traversing the imposed the rejection of claim 1 under 35 U.S.C. § 102 for lack of novelty as evidenced by Kuribayashi et al. The Examiner's additional comments with respect to claims 4 and 7 do not cure the previously argued deficiencies of Kuribayashi et al.

Further, Applicants separately argue the patentability of claims 4 and 7. The Examiner made assertions of what is known in general and then concluded that the claimed subject matter as a whole had been obvious. But the Examiner failed to comply with judicial mandates by providing **objective evidence** to support the asserted motivation. As the Examiner should be aware, regardless of the source of motivation, objective evidence must **always** be proffered. *Teleflex Inc. v. Ficosa North America Corp., 299 F.3d 1313, 63 USPQ2d 1374, 1387 (Fed. Cir. 2002).* Therefore, the Examiner's rejection of claims 4 and 7 is without the requisite factual basis.

Applicants, therefore, submit that the imposed rejection of claims 4 and 7 under 35 U.S.C. § 103 for obviousness predicated upon Kuribayashi et al. is not factually or legally viable and, hence, solicit withdrawal thereof.

New claim 10

New claim 10 is free of the applied prior art for reasons which should be apparent from the arguments submitted *supra*. Applicants would stress that Kuribayashi et al. neither disclose nor suggest an optical module as defined in claim 10 comprising, *inter alia*, a bracket disposed in the groove of an optical receptacle in contact with the front groove surface of the optical sub-assembly, and an elastic member disposed between the rear groove surface in the optical sub-assembly, wherein the elastic member enables the head portion of the optical sub-assembly to displace within the cavity. Accordingly, claim 10 is free of the applied prior art.

Based upon the foregoing it should be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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